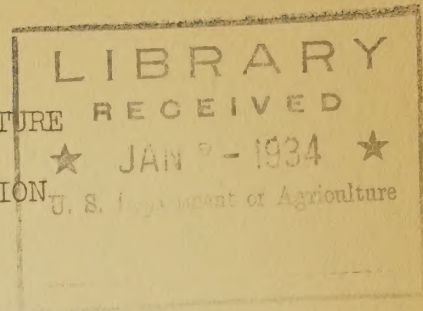


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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION



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AMENDED SUBSTITUTE FOR THE  
PROPOSED  
CODE OF FAIR COMPETITION FOR  
THE BREWING INDUSTRY

AS SET FOR HEARING ON

November 27, 1933.

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This document is an amended substitute for the proposed Code of Fair Competition for the Brewing Industry which has been set for hearing on Monday, November 27th, 1933. This amended substitute will be presented for the record at the hearing on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages. This amended substitute is presented as a basis for developing evidence with respect to the policies incorporated in the amended substitute and is not to be regarded as an expression of the final views of the Special Committee.







# CODE OF FAIR COMPETITION FOR THE BREWING INDUSTRY

## ARTICLE I.

### Purposes

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And -

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And -

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcohol or alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Brewing Industry and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States.



## ARTICLE II

### Definitions

Section 1. As used in this Code-

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "United States" includes the several States and Territories, the District of Columbia, and Puerto Rico.
- (d) The term "person" means individual, partnership, corporation, association and any other business unit.
- (e) The term "brewing industry" means (1) the manufacture of beer, ale, porter, stout and other fermented malt liquors or cereal beverages, containing more than 1/2 of 1 per cent by volume of alcohol, or (2) the bottling, warehousing or other handling or distribution of these products, or the sale or other disposition thereof, by a brewer or an affiliate or subsidiary thereof.
- (f) The term "products of the industry" or "products" means beer, ale, porter, stout and other fermented malt liquors or cereal beverages, containing more than 1/2 of 1 per cent of alcohol by volume.
- (g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.
- (h) The term "watchman" includes only employees whose principal function is watching and guarding the premises and property of the establishment.
- (i) The term "outside salesman" means any salesman who performs exclusively selling functions and does not deliver.
- (j) The term "employer" means any person by whom any such employee is compensated or employed.
- (k) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.
- (l) The term "books and records" means any books, records, accounts contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.
- (m) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.



(n) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner, or any subsidiary thereof.

(o) The term "trade buyer" means any buyer of products of the industry other than an ultimate consumer buyer.

(p) The term "Administration" means the Federal Alcohol Control Administration.

(q) The term "Director" means the director of the Federal Alcohol Control Administration.

### ARTICLE III

#### Labor Provisions

##### Hours

(1) No employee shall knowingly be permitted to work in excess of 40 hours in any week or 8 hours in any one day or 6 days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 per cent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than 72 hours per week.

(d) Delivery drivers provided they are paid at least time and one-third for all hours worked in excess of 40 hours per week and 8 hours per day.

(2) In addition the maximum hours established shall not apply in those departments or divisions of the brewing industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed 48 hours per week and 10 hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of 40 hours per week and 8 hours per day.

(3) The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employees working in excess of forty hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

(4) No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.



## ARTICLE IV

### Wages

(1) No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and messengers may be employed at not less than \$14.00 per week.

(2) No watchman shall be paid at a rate of less than \$20.00 per week.

(3) No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than \$18.00 per week provided that in no case shall the rate of pay be below an amount which for 40 hours of labor will result in the same pay as is now paid to such employee for the number of hours per week which he regularly works unless such pay is hereafter otherwise fixed by collective bargaining agreement.

(4) It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or piece work performance.

(5) It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

## ARTICLE V

### General Labor Requirements

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(4) On and after the effective date of this Code, no person under 16 years of age shall knowingly be permitted to work in the industry.

(5) Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinance.



(6) Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

(7) Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

(8) All changes in the provisions of Articles III and IV or of this Article shall be posted within one week after such changes have been incorporated in the Code.

## ARTICLE VI

### Permits

Section 1. No person shall engage in the brewing industry except pursuant to a permit issued by the Director. Each member of the industry entitled to the use of plant capacity under Article VII of this Code shall be given a permit upon application therefor and such permit shall remain in effect during the duration of this Code unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Articles III, IV and V) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business, or any right to engage in the manufacture or distribution of any product after the termination of the permit; neither the provisions of Article VII nor any other provisions of this Code shall modify or reduce the effect of this sentence.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

## ARTICLE VII

### Control of Plant Capacity and Production

Section 1. No person shall utilize for the production of products of the industry plant capacity, in excess of that held by him or under actual process of construction by him on the date of the repeal of the 18th Amendment or on the effective date of this Code, whichever is the earlier; except that any person may utilize for the production of products of the industry plant capacity, acquired or constructed by him in addition to the foregoing, if in the judgment of the Administration, after due notice and opportunity for hearing, such additional utilization of plant capacity is necessary to meet the consumptive demands for products of the industry. Nothing in this section shall be construed to prevent any person from constructing new plant capacity to replace abandoned or destroyed plant capacity which could be utilized under the provisions of this section.

Section 2. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of products of the industry is larger than the probable demand therefor, so as to tend to produce excessive accumulations of stocks, excessive competition for sales, or other



detrimental marketing conditions in the industry and thereby tends to prevent the effectuation of the declared policy of the Act or of the purposes of this Code, the Administration, after consultation with the Code Authority, notwithstanding the provisions of Section 1 of this Article, may limit the production and distribution of the products of the industry and allocate the products thereof among the members of the industry and may provide for the orderly distribution of accumulated stocks. If the Administration finds, after due notice and opportunity for hearing, that the current supply of any class or type of product of the industry, is, or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

## ARTICLE VIII

### Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any product. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any product that is misbranded. A product shall be deemed to be misbranded--

(a) Food and Drugs Act requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of fill. If its container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of identity. If it purports to be or is represented as a product for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of quality. If it purports to be or is represented as a product for which standards of quality have been prescribed by regulations of the Administration, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label requirements. If it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Regulations for the purpose of this sub-section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase products of a particular brand or from a particular person



or (b) to refrain from purchasing of or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement or contract the effect of which will amount to the shipment and/or delivery of products on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service. No member of the industry shall pay a trade buyer for a special advertising or other distribution service by such buyer (a) except in pursuance of a written contract made in good faith and explicitly defining the service to be rendered and the payment for it; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same trade area; and (e) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the sellers price.

Section 7. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any trade buyer handle or sell only the products of a particular member of the industry.

Section 8. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement except bona fide samples to either trade or consumer buyers.

Section 9. Control of Retail Outlets. To acquire after the effective date of this Code or to hold after January 1, 1935, any interest in any license for the sale of products at retail, or in any premises used therefor; or, after the effective date of this Code (or as soon thereafter as possible and in no case later than January 1, 1935), in any way, directly or indirectly, to participate or engage in the retail sale of products, or to have control of, employ, manage, or financially assist in any manner, any person engaging in the retail sale of products; provided, that this shall not be construed to prohibit a member of the industry to give away or sell products on premises of which the brewery is a part.

Section 10. Sales to Unauthorized Vendors. To sell or otherwise dispose of products to any person not authorized by license, in full force and effect, to sell, manufacture or distribute products, if such a license is required of such person by State law; or to sell or otherwise dispose of products to any member of an industry covered by any code under this Act relating to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the code.



Section II. Violations of State Law. To transport or import products into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

Section 12. Equipment and Fixtures. To furnish, give, rent, lend or sell any equipment, fixtures, or supplies, directly or indirectly, to any trade buyer. Nothing herein shall be construed to prohibit the sale to any trade buyer by members of the industry of such equipment, fixtures or supplies now owned by them and now installed in retail premises.

Section 13. Signs. To furnish, give, rent, lend or sell any interior decoration, or to furnish, give, rent, lend or sell any sign which costs more than \$2.00.

#### ARTICLE IX

##### Prices and terms of Sale.

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with the regulations prescribed by it and approved by the Administration, and upon request, make available to trade and consumer buyers, price lists which will set forth (a) all the brands and types of products of the industry offered for sale by each member of the industry; (b) the sale price thereof to various classes of trade and consumer buyers, and (c) all other terms and conditions of sale of such products, including terms and conditions relating to deposits on and allowances and refunds for containers and bottles.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall upon request, make available such price list to trade and consumer buyers.

Section 3. No sale or other distribution of products of the industry shall be made by any member of the industry except in accordance with such prices, terms and conditions so posted and in effect.

Section 4. No member of the industry shall post or keep posted any prices or terms or conditions which (a) constitute destructive price cutting, or (b) are so high as to encourage, directly or indirectly, the sale of products of the industry in violation of the law, or (c) be oppressive to the consumer.

Section 5. If after investigation the Code Authority finds that any prices or terms or conditions posted under this Article are not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such prices or terms or conditions ineffective.



Section 6. If the Administration is of the opinion that any prices or terms or conditions posted, of any class or type of products of the industry, are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not, within ten days, take action acceptable to the Administration, the Administration may then declare such prices or terms or conditions ineffective, if it finds they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances, or rebates, refunds, concessions or discounts, whether in the form of money or otherwise, not in conformity with the prices or terms of sale as described in the posted price list, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms or conditions of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

#### ARTICLE X

##### Distributors

Section 1. As used in this Article, the term distributor means any trade buyer except a trade buyer who distributes solely to consumers.

Section 2. No member of the industry shall sell or deliver products to a distributor unless such distributor agrees to comply, and does comply, with the provisions of Article VIII.

#### ARTICLE XI

##### Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code and/or (2) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code are being effectuated, such reports to be verified under oath.



Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

## ARTICLE XII

### Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by the industry and approved by the Administration. The members of the Code Authority shall be subject to approval of the Administration and subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this Code by members of the industry;

(b) To prescribe rules for performance of its functions subject to the approval of the Administration;

(c) To recommend to the Administration amendments to this Code;

(d) To cooperate with and assist the Administration, as the Administration may from time to time request, in carrying out its functions under this Code;

(e) To make reports to the Administration from time to time on problems relating to the industry, affecting the Administration of this Code;

(f) To receive and investigate charges of apparent violations of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.



Section 2. If the members of the industry fail to submit a plan under Section 1 within ten days after the effective date of this Code or if the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

### ARTICLE XIII

#### Administration

Section 1. The Federal Alcohol Control Administration established in accordance with the provisions of the Code of Fair Competition for the Distilled Spirits industry, shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may utilize the services of the Bureau of Internal Revenue, the Agricultural Adjustment Administration, the Food and Drugs Administration, and other agencies of the Government in performing its functions under this Code. The President may allocate to any agency of the Government whose services are so utilized, such monies available for carrying out the purposes of Title I of the National Industrial Recovery Act as may be necessary.

Section 3. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not within such time as the Administration deems proper, take action relating to such report satisfactory to the Administration, the Administration shall take such action as it may deem necessary to administer such provisions.

Section 4. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems desirable.

### ARTICLE XIV

#### Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

### ARTICLE XV

#### Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with their respective powers and duties under this Code.



ARTICLE XVI

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XVII

Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the brewing industry.

ARTICLE XVIII

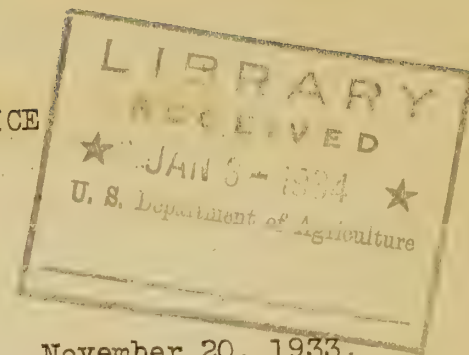
Effective Date

Section 1. This Code shall be effective the day following its approval by the President.



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CODE OF FAIR COMPETITION AND TRADE PRACTICE  
FOR THE  
BREWERY DISTRIBUTORS INDUSTRY  
  
SUBMITTED FOR PUBLIC HEARING



November 20, 1933.

PREAMBLE

In order to effectuate the policy declared by the National Industrial Recovery Act of June 16, 1933 (as administered by the Secretary of Agriculture under the Executive Order of June 26, 1933) during the period of the emergency by reducing and relieving unemployment, improving the standards of labor, eliminating competitive practices destructive of the interest of the public, employees and employers and otherwise rehabilitating the brewery distributors industry, this Code of Fair Competition is hereby established for the Brewery Distributors Industry.

To further aid in the effectuation of the declared policy of the National Industrial Recovery Act, the members of the Brewery Distributors Industry hereby pledge their cooperation with the Secretary in the event that a general master code or any other code affecting this Industry is adopted.

ARTICLE I

PURPOSES

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title 1 of the National Industrial Recovery Act.

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purposes of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And -



WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And -

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcohol or alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW THEREFORE, to effectuate such policy, the following provisions are established as a Code of fair competition for the National Brewery Wholesalers and Distributors Association, and upon approval by the President, shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

## ARTICLE II

### DEFINITIONS

As used in this code:

- (1) The term "President" means the President of the United States.
- (2) The term "Secretary" means the Secretary of Agriculture of the United States.
- (3) The term "Administrator" means the duly designated representative of the President to administer such functions and powers under Title 1 of the National Industrial Recovery Act as are not delegated to the Secretary by Executive Order.
- (4) The term "act" means Title 1 of the National Industrial Recovery Act, approved June 16, 1933.
- (5) The term "person" means individual, partnership, corporation, association and any other business unit.
- (6) The term "employee" means any person, engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method payment of such compensation.
- (7) The term "outside salesman" as used herein shall mean any salesman who performs exclusively selling functions and does not deliver.



(8) The term "member of the industry" means any person engaged in the industry as an employer.

(9) The term "products of the industry" or "industry products" as used herein shall include Beer, Ale, Porter, Stout, and other fermented malt liquors.

(10) The term "State" includes Territory and the District of Columbia.

(11) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(12) The term "distributor" or "wholesaler" as used herein is defined to mean any person, firm or corporation operating a regular delivery system, and soliciting and serving fermented malt liquors to customers who sell at retail.

### ARTICLE III

#### LABOR PROVISIONS

##### HOURS

(1) No employee shall knowingly be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any one day or six (6) days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 per cent of the total number of employees, but each plant shall be entitled to at least one.

(c) Delivery drivers provided they are paid at least time and one-third for all hours worked in excess of forty (40) hours per week and eight (8) hours per day.

(2) In addition the maximum hours established shall not apply in those departments or divisions of the distributing and/or wholesaling industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed forty-eight (48) hours per week and ten (10) hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of forty (40) hours per week and eight (8) hours per day.

(3) The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employee working in excess of forty hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.



(4) No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

#### ARTICLE IV

##### WAGES

(1) No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and messengers may be employed at not less than \$14.00 per week.

(2) No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than eighteen (18) dollars per week provided that in no case shall the rate of pay be below an amount which for forty (40) hours of labor will result in the same pay as is now paid to such employee for the number of hours per week which he regularly works unless such pay is hereafter otherwise fixed by collective bargaining agreement.

(3) It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or piece work performance.

(4) It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

#### ARTICLE V

##### GENERAL

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(4) On and after the effective date of this Code, no person under 16 years of age shall knowingly be permitted to work in the industry.

(5) Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided, that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinance.



(6) Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

### POSTING

(1) Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

(2) All changes in the provisions of these aforesaid articles shall be posted within one week after such changes have been incorporated in the Code.

## ARTICLE VI

### GENERAL TRADE PRACTICES

No member of the industry shall engage in any way in any of the following practices which are prohibited as Unfair Methods of Competition.

#### 1. UNETHICAL PUBLICITY

The publishing or causing to be published by a member of the industry of false or misleading advertising or publicity pertaining to the grade or quality of his industry products, or the publishing or dissemination of any false or misleading statement respecting another member of the industry, or any officer, employee or director thereof, or respecting the grade or quality of the products of another member of the industry.

#### 2. COMMERCIAL BRIBERY

The giving or permitting to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

#### 3. FALSE INVOICING

The making of any sale upon terms and conditions other than those set forth in the invoice, and the making of any sale or delivery, except sales or deliveries to the home, without a written invoice.

#### 4. SHIPMENT OR DELIVERY ON CONSIGNMENT

The making of or entering into any agreement or contract the effect of which will amount to the shipment and/or delivery of products of the industry on consignment. "Consignment", as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.



## 5. POSTED PRICES

All brewery wholesalers and/or distributors, within forty (40) days after the effective date of this Code, shall file with the respective regional boards having jurisdiction over the regions wherein their products of the industry are distributed, a list showing the current net price or prices thereof to the retailer and to the home, and the net price for their containers, if same are sold, or the deposit therefor.

Such regional boards shall immediately send copies of such lists to all brewery wholesalers and/or distributors whose plants are located within their respective jurisdictions and also to all other wholesalers and/or distributors and their representatives who have filed requests therefor with such respective regional boards.

Revised lists may be filed with such boards from time to time thereafter, to become effective on the date specified therein, but in no event less than fifteen (15) days after receipt thereof by said boards unless such revised lists are filed as a result of a change in the rate of tax payable by the wholesaler and/or distributor; provided that copies of such revised lists shall immediately be sent by such regional boards to all wholesalers and/or distributors and their representatives entitled under previous provisions hereof to receive copies of current lists.

On receipt of a revised list any brewery wholesaler and/or distributor may file revision of his current lists in such region, which shall become effective on the date that the revised list first filed becomes effective and any wholesaler and/or distributor may at any time file a revised list, to be immediately effective, listing a price not below the minimum which is posted and effective in said region by another.

All sales of industry products to retailers or to the home shall be at the respective prices posted by the wholesaler and/or distributor for the region in which the retailer and/or home are located and unless a wholesaler and/or distributor has posted his list within forty (40) days after the effective date of this Code none of the products of the industry produced by him shall be distributed in such region within less than fifteen (15) days after he has posted his prices.

No products of the Industry shall be sold to retailers or to the home located in any region outside the region of manufacture below the respective minimum posted prices for such product in the region of manufacture except for the purpose of meeting the minimum price posted by another for products of the industry in the region in which the retailer and/or home are located.

All wholesalers and/or distributors shall require of the retailers who sell to the home and public to sell not below prices posted in the region in which the retailer and/or the home are located. All posted lists shall be available to trade buyers.



## 6. SECRET REBATES

The secret payment of allowance or rebates, refunds, concessions, advertising allowances or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all under like terms and conditions in connection with or as an inducement to the sale of products of the industry.

## 7. DESTRUCTIVE PRICE CUTTING

Engaging in destructive price cutting or selling at or below cost so as to affect or injure a competitor or substantially lessen competition, or so as to tend to create a monopoly or unreasonably to restrain trade.

If in the opinion of the Code Administration Board or regional Board, whichever has jurisdiction as hereinafter provided, any sales price indicates a violation of the foregoing which would prevent in the Brewery Wholesaling and Distributing Industry effectuation of the declared policy of the N.I.R.A., the Code Administration Board or regional Board, whichever has jurisdiction as hereinafter provided, shall so notify the member of the Industry whose sales price is under investigation. If, after due notice and hearing in such manner as is hereinafter prescribed, it shall be found that any such member of the industry has violated the foregoing provision, notice shall be sent to the Secretary of Agriculture as hereinafter provided.

## 8. CONTAINER DEPOSITS

(a) The delivery of any hogsheads, barrels, kegs or cases, title to which is retained by the Wholesaler and/or Distributor, without collecting a deposit for the container at the time collection is made for the product of the industry of not less than \$2.50 for kegs smaller than quarter barrels, \$4.00 for quarter barrels, \$6.00 for half barrels, \$8.00 for barrels, \$10.00 for hogsheads, \$.75 for returnable case and two dozen bottles of thirteen ounce capacity or less each, \$.30 per dozen for such bottles not packed in returnable cases and a proportionate deposit for cases and/or bottles of different size.

## 9. RETURNABLE CONTAINERS

The acceptance as a return or the purchase or use of a hogshead, barrel, half barrel, keg, case or bottle branded or imprinted with the name of another Wholesaler and/or Distributor unless it be for exchange with the Wholesaler and/or Distributor whose name is branded thereon and such exchange is completed.

## 10. SIGNS

(a) The furnishing, giving, lending or renting of any interior decoration other than signs or the furnishing, giving, lending or renting of any sign or signs, for inside or outside, use, clean coil, and/or build arm for

(b) The payment of money or other thing of value for the privilege of placing or painting a sign on the premises occupied by anyone selling products of the Industry for consumption on the premises where sold.



## II. PRIZES AND PREMIUMS

No Wholesaler and/or Distributor shall offer any prize or premium or gift to either a trade or a consumer buyer in pursuance of a plea which involves fraud or deception or lottery.

### 12. DISTRIBUTORS AND/OR WHOLESALERS

No distributor and/or wholesaler shall sell to any retailer without requiring a contract of the said retailer to observe all the rules and regulations prescribed by this Code, and no distributor and/or wholesaler refusing to sign such contract shall have any legal recourse because of the requirements of the said distributor and/or wholesaler that the said agreement be signed.

## ARTICLE VII

### REPORTS

Section 1. The members of the Industry shall severally, from time to time, upon the request of the Secretary (or the Secretary or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms or reports to be supplied, as may be necessary for the purposes of (1) carrying out the powers and duties of the Secretary or the National Recovery Administrator with respect to this code and/or (2) enabling the Secretary or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the act and the purposes of this code will be effectuated, such reports to be verified under oath.

Section 2. The members of the Industry shall severally permit, for the same purposes and/or to enable the Secretary or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their subsidiaries and affiliates, engaged in the Industry, to be examined by the Secretary or the National Recovery Administrator during the usual hours of business.

Section 3. The members of the Industry shall severally keep books and records which will clearly reflect all financial transactions of their respective subsidiaries and affiliates, engaged in the industry, keep such records.

Section 4. All information furnished the Secretary pursuant to this Article shall remain confidential and shall not be disclosed except upon lawful demand by the President, either House of Congress or any committee thereof or by any court of competent jurisdiction.



## ARTICLE VIII

### ADMINISTRATION

Section 1. A committee which shall be known as the Code Administration Board shall be established by the Industry for the purpose of administering, supervising, and promoting the performance of the provisions of this Code. This committee shall be established immediately upon the approval of this Code as follows:

The Code Administration Board shall be composed of nine (9) members, each of whom shall be engaged in the Industry, they shall serve without pay and shall be appointed and/or elected for one year. Five (5) of them shall be appointed and/or elected by the President of the National Brewery Wholesalers and Distributors Association and confirmed by the Board of Directors of the said Association. Four (4) of them shall be appointed and/or elected by the members of the Industry who are not members of the said National Brewery Wholesalers and Distributors Association. Such non-members may vote at meetings by proxies and a majority vote of all such distributors and/or wholesalers, not members of the said National Brewery Wholesalers and Distributors Association shall be required to elect.

Of the members appointed or elected by each group not more than one shall come from a single region. Lists of members so appointed and/or elected shall be submitted to the Secretary for approval, and the Secretary and the Administrator may each appoint a representative to attend the meetings of the Code Administration Board.

Not more than one officer, director, or employee of any one member of the Industry shall be a member of the Code Administration Board. Members of the Board may be represented at meetings in person or by proxy.

Vacancies on said Board so far as National Brewery Wholesalers and Distributors Association members are concerned shall be filled by appointment made by the President of that Association with the approval of the Board of that Association; and vacancies so far as other members are concerned shall be filled by election or ballots sent through the mail to all permit holding wholesalers and/or distributors in the United States who are not members of the said Association by the said Code Administration Board under such rules and regulations as they may adopt. Lists of members so appointed or elected to fill vacancies shall be submitted to the Secretary for approval.

Said Board shall have the following powers:

(a) To adopt, with the Approval of the Secretary, uniform rules and regulations for the administration of the provisions of this Code as to the holding of hearings by the regional boards to be organized, as to the form and the record of such hearing and transcript thereof, as to the procedure governing appeals from said regional boards and as to the conduct of those functions herein vested in said board.

(b) To cooperate with regional boards to be organized by members of the Industries whose plants are located in the region or state for the administration of this Code within their respective territories as follows:



<u>Board Number</u>	<u>Territorial Limitation</u>
1.....	Maine New Hampshire Vermont Massachusetts Rhode Island Connecticut
2.....	New York New Jersey Delaware
3.....	Maryland District of Columbia Virginia Pennsylvania North Carolina South Carolina Georgia Florida Alabama Mississippi Kentucky Tennessee
4.....	Ohio West Virginia Indiana Iowa Illinois Michigan
5.....	Wisconsin Minnesota Missouri
6.....	Louisiana Arkansas Oklahoma Texas Colorado
7.....	Utah Wyoming Kansas Nebraska North Dakota South Dakota New Mexico



<u>Board Number</u>	<u>Territorial Limitation</u>
8.....	Montana Washington Idaho Oregon Alaska
9.....	California Nevada Arizona Hawaii

The Secretary may, from time to time, make such changes in the territorial limitations of the regional boards as he deems necessary.

All members of the wholesaling and distributing brewery industry located in any region shall, within fifteen (15) days after the effective date of this Code, gather in convention in some centrally located point in that region, and there nominate and elect by ballot a regional board to cover the region in which such wholesalers' and/or distributors' plants are located. The members of said regional Boards shall be representative of the wholesalers and/or distributors in the region considering capacity and/or numbers and their names shall be submitted to the Secretary for approval.

(c) Each regional board shall adopt, with the approval of the Secretary, rules and regulations for the administration of the provisions of this Code as to its organization and as to investigations to be made by it, and shall have power to interpret informally for the members of the region the provisions of this Code.

(d) Any of said regional boards shall entertain and hear complaints under the rules and regulations promulgated as above against anyone engaged in the wholesaling and distributing brewery industry, arising out of any intraregional alleged violation of this Code or of the N.I.R.A. in the region over which it has jurisdiction, and shall have power to require from anyone engaged in the industry a statement, under oath, of the facts pertinent to the inquiry. Intraregional violation shall be deemed to be a violation in the region by a member of the industry whose plant is located in the region in which the alleged violation occurred.

If said statements under oath do not, in the opinion of said regional board, fully establish the pertinent facts, said regional board may designate a certified public accountant and shall empower him to make such investigations as may be necessary to determine the facts involved in the particular charges under inquiry, copy of which shall be furnished to him. Said accountant shall report his findings of fact to the said regional board unless the defendant asserts that the facts investigated are of a confidential nature, in which event said accountant shall report his findings of facts directly to a Code Administration Board employee who shall not be a member of the wholesaling and distributing brewery industry or employed by a member of the said industry.



In the latter event said facts shall be made public only to the extent necessary in a prosecution or other governmental procedure. In the event the said accountant reports directly to the aforesaid employee, the said regional board shall also forward to the said employee the transcript of record which it has compiled, in order that said employee may have the full record before him. Said employee shall submit the complete record with a digest thereof to the Secretary of Agriculture.

If the said regional board, in event all of the record is before it, finds that there has been violation of any of the provisions of this code or of the N. I. R. A., it may proceed by warning notice to the defendant or by report to the Code Administration Board, which in the absence of appeal shall transmit the record and recommendations to the Secretary.

Each regional board shall have power to employ such paid assistants as it deems necessary, and all of the expenses which shall be limited to carry out the provisions of this Code, of such regional board shall be paid by the members of the industry whose products are distributed in the region over which said board has jurisdiction in proportion to distribution by barrels, on a budget to be made public to all members of the wholesaling and distributing brewery industry whose products are sold in said region. The members of such regional board shall serve without pay.

Appeals shall lie on motion of the complainant or defendant from the findings of said regional boards to the Code Administration Board, which, when it deems it necessary, may report its findings of fact and recommendations to the Secretary of Agriculture together with the finding of fact and recommendation of the regional board. Copy of said finding of fact and recommendation shall be sent also to the regional board in which the case originated.

The Code Administration Board shall have the same functions and authority with respect to inter-regional alleged violations as are above provided for regional boards with respect to intra-regional alleged violations.

(e) To consider proposals from any member of the industry for the amendment of this Code and to submit such proposals to the proper Federal agency.

(f) To interpret informally for members of the industry the provisions of this Code, which interpretation shall be rendered through the regional boards.

(g) The expenses of the Code Administration Board which shall be limited to carrying out the provisions of this Code shall be paid by members of the wholesaling and distributing brewery industry in proportion to their sales (by barrels) to be collected in such manner as the Board may determine on a budget to be made public to all members of the said industry.

## ARTICLE IX

### DURATION OF IMMUNITIES

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.



ARTICLE X

AGENTS

Section 1. The Secretary and the National Recovery Administration may each by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with his respective powers and duties under any provision of this code.

ARTICLE XI

MODIFICATION

Section 1. This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of the code or any conditions imposed by him upon his approval thereof.

ARTICLE XII

If any member of the Industry is also engaged in any other industry or trade the provisions of this code shall apply to and affect only that part of the business of such member of the industry which is included in the wholesaling and distributing brewery industry.

ARTICLE XIII

EFFECTIVE DATE

This Code shall be effective the fifth day after the Code is approved and signed by the President of the United States.

Respectfully submitted,

National Brewery Wholesalers and Distributors  
Association

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J. J. Biggins, President







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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION

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PROPOSED  
CODE OF FAIR COMPETITION  
FOR  
THE BREWING INDUSTRY OF THE UNITED STATES  
AS SET FOR HEARING  
NOVEMBER 27, 1933

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The Code for the Brewing Industry of the United States in its present form merely reflects the proposal of the above mentioned Industry, and none of the provisions contained therein are to be regarded as having received the approval of the Agricultural Adjustment Administration, or the National Recovery Administration as applying to this Industry.







CODE OF FAIR COMPETITION  
for  
THE BREWING INDUSTRY OF THE UNITED STATES

To be submitted for Public Hearing

Article I

Purposes.

Whereas, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

Nowwherefore, to effectuate such policy, the following provisions are established as a code of fair competition for the Brewing Industry, and upon approval by the President, shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

Article II

Definitions.

As used in this code-

- (1) The term "President" means the President of the United States.
- (2) The term "Secretary" means the Secretary of Agriculture of the United States.
- (3) The term "Administrator" means the duly designated representative of the President to administer such functions and powers under Title I of the National Industrial Recovery Act as are not delegated to the Secretary by Executive Order.
- (4) The term "act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (5) The term "person" means individual, partnership, corporation, association and any other business unit.



(6) The term "Brewing Industry" as used herein is defined to mean the manufacture of Beer, Ale, Porter, Stout and other Fermented Malt liquors and of Cereal Beverage and the bottling and sale thereof by such manufacturer.

(7) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature of method of payment of such compensation.

(8) The term "watchmen" as used herein includes only employees whose principal function is watching and guarding the premises and property of the establishment.

(9) The term "outside salesmen" as used herein shall mean any salesman who performs exclusively selling functions and does not deliver.

(10) The term "employer" means any person by whom any such employee is compensated or employed.

(11) The term "member of the industry" means any person engaged in the industry as an employer.

(12) The term "Brewer" as used herein is defined to mean any person who manufactures Beer, Ale, Porter, Stout or other fermented malt liquor or Cereal Beverage for sale.

(13) The term "products of the industry" or "industry products" as used herein shall include Beer, Ale, Porter, Stout and other fermented malt liquors.

(14) The term "State" includes Territory and the District of Columbia.

(15) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(16) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(17) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

(18) The term "distributor" as used herein is defined to mean any person, firm or corporation operating a regular delivery system, and soliciting and serving fermented malt liquors to customers who sell at retail.

### Article III

#### Labor Provisions.

##### Hours

(1) No employee shall knowingly be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any one day or six (6) days in



any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 per cent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than seventy-two (72) hours per week.

(d) Delivery drivers provided they are paid at least time and one-third for all hours worked in excess of forty (40) hours per week and eight (8) hours per day.

(2) In addition the maximum hours established shall not apply in those departments or divisions of the brewing industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed forty-eight (48) hours per week and ten (10) hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of forty (40) hours per week and eight (8) hours per day.

(3) The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employee working in excess of forty hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

(4) No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

#### Article IV

##### Wages

(1) No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and messengers may be employed at not less than \$14.00 per week.

(2) No watchman shall be paid at a rate of less than \$20.00 per week.

(3) No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than eighteen (18) dollars per week provided that in no case shall the rate of pay be below an amount which for forty (40) hours of labor will result in the same pay as is now paid to such employee for the number of hours per week which he regularly works unless such pay is hereafter otherwise fixed by collective bargaining agreement.

(4) It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or piece work performance.



(5) It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

## Article V

### General.

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(4) On and after the effective date of this Code, no person under 16 years of age shall knowingly be permitted to work in the industry.

(5) Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, then under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinance.

(6) Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

### Posting.

(1) Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

(2) All changes in the provisions of these aforesaid articles shall be posted within one week after such changes have been incorporated in the Code.

## Article VI

### General Trade Practices.

No member of the industry shall engage in any way in any of the following practices which are prohibited as Unfair Methods of Competition.



### 1. Unethical Publicity.

The publishing or causing to be published by a member of the industry of false or misleading advertising or publicity pertaining to the grade or quality of his industry products, or the publishing or dissemination of any false or misleading statement respecting another member of the industry, or any officer, employee or director thereof, or respecting the grade or quality of the products of another member of the industry.

### 2. Commercial Bribery.

The giving or permitting to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

### 3. False Invoicing.

The making of any sale upon terms and conditions other than those set forth in the invoice, and the making of any sale or delivery, except sales or deliveries to the home, without a written invoice.

### 4. Shipment or Delivery on Consignment.

The making of or entering into any agreement or contract the effect of which will amount to the shipment and/or delivery of products of the industry on consignment. "Consignment", as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.

### 5. Posted Prices.

All Brewers shall, within forty (40) days after the effective date of this Code, file with the respective regional boards having jurisdiction over the regions wherein their products of the industry are distributed, a list showing the current net price or prices thereof to the retailer and to the home, and the net price for their containers, if same are sold, or the deposit therefor.

Such regional boards shall immediately send copies of such lists to all Brewers whose breweries are located within their respective jurisdictions and also to all other brewers and their representatives and distributors who have filed requests therefor with such respective regional boards.

Revised lists may be filed with such boards from time to time thereafter, to become effective on the date specified therein, but in no event less than fifteen (15) days after receipt thereof by said boards unless such revised lists are filed as a result of a change in the rate of tax payable by the brewer; provided that copies of such revised lists, shall immediately be sent by such regional boards to all brewers, representatives and distributors entitled under previous provisions hereof to receive copies of current lists.



On receipt of a revised list any brewer may file revision of his current lists in such region, which shall become effective on the date that the revised list first filed becomes effective and any brewer may at any time file a revised list, to be immediately effective, listing a price not below the minimum which is posted and effective in said region by another.

All sales of industry products to retailers or to the home shall be at the respective prices posted by the producing brewer for the region in which the retailer and/or home are located and unless a brewer has posted his list within forty (40) days after the effective date of this Code none of the products of the industry produced by him shall be distributed in such region within less than fifteen(15) days after he has posted his prices.

No products of the Industry shall be sold to retailers or to the home located in any region outside the region of manufacture below the respective minimum posted prices for such product in the region of manufacture except for the purpose of meeting the minimum price posted by another for products of the Industry in the region in which the retailer and/or home are located.

All brewers shall by contract require every wholesaler or distributor to whom he sells products of the Industry to sell same to retailers and/or to the home at a price not below said brewers posted prices in the region in which the retailer and/or home are located. All posted lists shall be available to trade buyers.

#### 6. Secret Rebates.

The secret payment of allowances or rebates, refunds, concessions, advertising allowances or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all under like terms and conditions in connection with or as an inducement to the sale of products of the Industry.

#### 7. Destructive Price Cutting.

Engaging in destructive price cutting or selling at or below cost so as to affect or injure a competitor or substantially lessen competition, or so as to tend to create a monopoly or unreasonably to restrain trade.

If in the opinion of the Code Administration Board or regional Board, whichever has jurisdiction as hereinafter provided, any sales price indicates a violation of the foregoing which would prevent in the Brewing Industry effectuation of the declared policy of the N.I.R.A., the Code Administration Board or regional Board, whichever has jurisdiction as hereinafter provided, shall so notify the member of the Industry whose sales price is under investigation. If, after due notice and hearing in such manner as is hereinafter prescribed, it shall be found that any such member of the industry has violated the foregoing provision, notice shall be sent to the Secretary of Agriculture as hereinafter provided.

#### 8. Container Deposits.

(a) The delivery of any hogsheads, barrels, kegs or cases, title to which is retained by the Brewer, without collecting a deposit for the container at the time collection is made for the product of the Industry of not less than \$2.50 for kegs smaller than quarter barrels, \$4.00 for quarter barrels, \$6.00 for half



barrels, \$8.00 for barrels, \$10.00 for hogsheads, \$.75 for returnable case and two dozen bottles of thirteen ounce capacity or less each, \$.30 per dozen for such bottles not packed in returnable cases and a proportionate deposit for cases and/or bottles of different size.

(b) The sale of Industry products to a wholesaler or distributor without requiring by contract said wholesaler or distributor to agree to collect from his customers for the containers, title to which is retained by the Brewer, a deposit at the time he collects for products of the Industry the amount which said Brewer collects from said wholesaler or distributor.

#### 9. Returnable Containers.

The acceptance as a return or the purchase or use of a hogshead, barrel, half barrel, keg, case or bottle branded or imprinted with the name of another brewer unless it be for exchange with the brewer whose name is branded thereon and such exchange is completed.

#### 10. Retail Licenses.

The ownership, directly or indirectly, after the expiration of existing licenses, of any interest in any license to sell products of the Industry for consumption on the premises covered by such license. Nothing herein contained shall apply to licenses issued to Brewers to give away or sell products of the Industry on premises of which the brewery is a part.

#### 11. Loans and Guaranties.

(a) The furnishing, giving or lending of any money, directly or indirectly, or through a subsidiary by any Brewer or by any officer, director, or firm member thereof to any person engaged in selling products of the Industry for consumption on the premises where sold, or to any other person for the use, benefit or relief of said person engaged in selling as above; the guaranteeing of the repayment of any loan or fulfillment of any financial obligation of any person engaged in selling as above.

Nothing herein contained shall affect the usual, ordinary commercial credits for the products of the Industry sold and delivered.

#### 12. Equipment and Fixtures.

The furnishing, giving, renting, lending or selling of any equipment, fixtures or supplies, directly or indirectly, or through a subsidiary by any Brewer or by any officer, director, or firm member thereof to any person engaged in selling products of the Industry for consumption on the premises where sold. Nothing herein shall be construed to prohibit the sale by Brewers of such equipment, fixtures or supplies now owned by them and now installed in retail premises, nor shall any loan, rental or sale of any equipment, fixtures or supplies made before the effective date of this Code be used as the consideration for an agreement hereafter made respecting the purchase of Industry products.

#### 13. Signs.

(a) The furnishing, giving, lending or renting of any interior decoration other than signs or the furnishing, giving, lending or renting of any sign or signs, for inside or outside use, costing collectively more than \$100 in any one



calendar year by any Brewer, directly or indirectly, or through a subsidiary, or by any officer, director or firm member of any Brewer for use in or about or in connection with any one establishment on which products of the Industry are consumed on the premises where sold. Provided that nothing herein shall affect existing sign or signs under uncancellable order costing not more than \$400 each if within forty (40) days after the effective date of this Code a list of such uncancellable order as have been placed by him is filed by the Brewer with the regional board having jurisdiction of the region in which his plant is located.

(b) The payment of money or other thing of value for the privilege of placing or painting a sign on the premises occupied by anyone selling products of the Industry for consumption on the premises where sold.

#### 14. Prizes and Premiums.

No Brewer shall offer any prize or premium or gift to either a trade or a consumer buyer in pursuance of a plea which involves fraud or deception or lottery.

#### 15. Distributors.

No Brewer shall sell and/or deliver products of the Industry to a distributor without requiring such distributor by contract, in addition to the requirements made in Paragraphs 5 and 8 of this Article, to abide by those limitations which are imposed on the Brewer by Sections 3, 4, 6, 11, 12 and 13 of this Article. Upon notice to a Brewer from a regional or from the Code Administration Board, whichever has jurisdiction, that a distributor has violated the terms of such a contract, said Brewer shall take such action as is reasonable to compel future compliance by said distributor with said provisions of such contract, to the point, if necessary, of refusing to sell products of the Industry to said distributor for at least six months.

### Article VII

#### Reports.

Section 1. The members of the Industry shall severally, from time to time, upon the request of the Secretary (or the Secretary of the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms or reports to be supplied, as may be necessary for the purposes of (1) carrying out the powers and duties of the Secretary or the National Recovery Administrator with respect to this code and/or (2) enabling the Secretary or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the act and the purposes of this code will be effectuated, such reports to be verified under oath.

Section 2. The members of the Industry shall severally permit, for the same purposes and/or to enable the Secretary or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their subsidiaries and affiliates, engaged in the Industry, to be examined by the Secretary or the National Recovery Administrator during the usual hours of business.



Section 3. The members of the Industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall see to it that their respective subsidiaries and affiliates, engaged in the industry, keep such records.

Section 4. All information furnished the Secretary pursuant to this Article shall remain confidential and shall not be disclosed except upon lawful demand by the President, either House of Congress or any committee thereof or by any court of competent jurisdiction.

## Article VIII

### Administration

Section 1. A committee which shall be known as the Code Administration Board shall be established by the Industry for the purpose of administering, supervising, and promoting the performance of the provisions of this Code. This committee shall be established immediately upon the approval of this Code as follows:

The Code Administration Board shall be composed of nine (9) members, each of whom shall be engaged in the Industry, they shall serve without pay and shall be appointed and/or elected for one year. Three (3) of them shall be appointed by the President of the United States Brewers Association by and with the approval of the Board of Directors of that Association; two (2) of them shall be appointed by the President of the American Brewers Association by and with the approval of the Board of Directors of that Association; and four (4) of them, not members of either of said Associations, shall be elected by permit holding brewers who are not members of either of said Associations at a meeting or convention of such non-members. Such non-members may vote at such meeting by proxies and a majority vote of all such brewers, not members of either of said Associations shall be required to elect.

Of the members appointed or elected by each group not more than one shall come from a single region. Lists of members so appointed and/or elected shall be submitted to the Secretary for approval, and the Secretary and the Administrator may each appoint a representative to attend the meetings of the Code Administration Board.

Not more than one officer, director, or employee of any one member of the Industry shall be a member of the Code Administration Board. Members of the Board may be represented at meetings in person or by proxy.

Vacancies on said Board so far as United States Brewers' Association members are concerned shall be filled by appointment made by the President of that Association with the approval of the Board of that Association; vacancies so far as American Brewers' Association members are concerned shall be filled by appointment made by the President of that Association with the approval of the Board of that Association; and vacancies so far as other members are concerned shall be filled by election on ballots sent through the mail to all permit holding brewers in the United States who are not members of either of said associations by the Said Code Administration Board under such rules and regulations as they may adopt. Lists of members so appointed or elected to fill vacancies shall be submitted to the Secretary for approval.



Said Board shall have the following powers:

(a) To adopt, with the approval of the Secretary, uniform rules and regulations for the administration of the provisions of this Code as to the holding of hearings by the regional boards to be organized, as to the form and the record of such hearing and transcript thereof, as to the procedure governing appeals from said regional boards and as to the conduct of those functions herein vested in said board.

(b) To cooperate with regional boards to be organized by members of the industry whose breweries are located in the region or state for the administration of this Code within their respective territories as follows:

<u>Board Number</u>	<u>Territorial Limitation</u>
1 . . . . .	Maine New Hampshire Vermont Massachusetts
2 . . . . .	Rhode Island Connecticut
3 . . . . .	New York
4 . . . . .	New Jersey
5 . . . . .	Delaware Maryland District of Columbia Virginia
6 . . . . .	Pennsylvania
7 . . . . .	North Carolina South Carolina Georgia Florida Alabama Mississippi Kentucky Tennessee
8 . . . . .	Ohio West Virginia
9 . . . . .	Indiana
10 . . . . .	Iowa Illinois
11 . . . . .	Michigan
12 . . . . .	Wisconsin
13 . . . . .	Minnesota
14 . . . . .	Missouri
15 . . . . .	Louisiana Arkansas Oklahoma Texas
16 . . . . .	Colorado Utah Wyoming Kansas Nebraska North Dakota South Dakota New Mexico



<u>Board Number</u>	<u>Territorial Limitation</u>
17 . . . . .	Montana Washington Idaho Oregon Alaska
18 . . . . .	California Nevada Arizona Hawaii

The Secretary may, from time to time, make such changes in the territorial limitations of the regional boards as he deems necessary.

All members of the Brewing Industry located in any region shall, within fifteen (15) days after the effective date of this Code, gather in convention in some centrally located point in that region, and there nominate and elect by ballot a regional board to cover the region in which such Brewers' plants are located. The members of said regional Boards shall be representative of the Brewers in the region considering capacity and/or numbers and their names shall be submitted to the Secretary for approval.

(c) Each regional board shall adopt, with the approval of the Secretary, rules and regulations for the administration of the provisions of this Code as to its organization and as to investigations to be made by it, and shall have power to interpret informally for the members of the region the provisions of this Code.

(d) Any of said regional boards shall entertain and hear complaints under the rules and regulations promulgated as above against anyone engaged in the Brewing Industry, arising out of any intraregional alleged violation of this Code or of the N.I.R.A. in the region over which it has jurisdiction, and shall have power to require from anyone engaged in the industry a statement, under oath, of the facts pertinent to the inquiry. Intraregional violation shall be deemed to be a violation in the region by a member of the industry whose brewery is located in the region in which the alleged violation occurred.

If said statements under oath do not, in the opinion of the said regional board, fully establish the pertinent facts, said regional board may designate a certified public accountant and shall empower him to make such investigations as may be necessary to determine the facts involved in the particular charges under inquiry, copy of which shall be furnished to him. Said accountant shall report his findings of fact to the said regional board unless the defendant asserts that the facts investigated are of a confidential nature, in which event said accountant shall report his finding of facts directly to a Code Administration Board employee who shall not be a member of the Brewing Industry or employed by a member of the Brewing Industry. In the latter event said facts shall be made public only to the extent necessary in a prosecution or other governmental procedure. In the event the said accountant reports directly to the aforesaid employee, the said regional board shall also forward to the said employee the transcript of record which it has compiled, in order that said employee may have the full record before him. Said employee shall submit the complete record with a digest thereof to the Secretary of Agriculture.



If the said regional board, in event all of the records is before it, finds that there has been violation of any of the provisions of this Code or of the N.I.R.A., it may proceed by warning notice to the defendant or by report to the Code Administration Board, which in the absence of appeal shall transmit the record and recommendations to the Secretary.

Each regional board shall have power to employ such paid assistants as it deems necessary, and all of the expenses which shall be limited to carry out the provisions of this Code, of such regional board shall be paid by the members of the industry whose products are distributed in the region over which said board has jurisdiction in proportion to distribution by barrels, on a budget to be made public to all members of the Brewing Industry whose products are sold in said region. The members of such regional board shall serve without pay.

Appeals shall lie on motion of the complainant or defendant from the findings of said regional boards to the Code Administration Board, which, when it deems it necessary, may report its findings of fact and recommendation to the Secretary of Agriculture together with the finding of fact and recommendation of the regional board. Copy of said finding of fact and recommendation shall be sent also to the regional board in which the case originated.

The Code Administration Board shall have the same functions and authority with respect to inter-regional alleged violations as are above provided for regional boards with respect to intraregional alleged violations.

(e) To consider proposals from any member of the industry for the amendment of this Code and to submit such proposals to the proper Federal agency.

(f) To interpret informally for members of the industry the provisions of this Code, which interpretation shall be rendered through the regional boards.

(g) The expenses of the Code Administration Board which shall be limited to carrying out the provisions of this Code shall be paid by members of the Brewing Industry in proportion to their sales (by barrels) to be collected in such manner as the Board may determine on a budget to be made public to all members of the Brewing Industry.

## Article IX

### Duration of Immunities.

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

## Article X

### Agents.

Section 1. The Secretary and the National Recovery Administrator may each by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with his respective powers and duties under any provision of this code.



Article XI

Modification.

Section 1. This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of the code or any conditions imposed by him upon his approval thereof.

Article XII

If any member of the Industry is also engaged in any other industry or trade, the provisions of this code shall apply to and affect only that part of the business of such member of the industry which is included in the Brewing Industry.

Article XIII

Effective Date.

This Code shall be effective the fifth day after the Code is approved and signed by the President of the United States.



UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION

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PROPOSED CODE OF FAIR COMPETITION - BREWING INDUSTRY

SUBMITTED BY: THE BREWING INDUSTRY OF THE UNITED STATES

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I, Ammon McClellan, Chief Hearing Clerk, Department of Agriculture, do hereby certify that this is a true and correct copy of the Code of Fair Competition for the Brewing Industry of the United States, delivered to this office by Mr. Harris E. Willingham, Chief Beverage Section.

Ammon McClellan,  
Chief Hearing Clerk  
5428 South Building  
Department of Agriculture



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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION

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SUBSTITUTE FOR THE  
PROPOSED  
CODE OF FAIR COMPETITION FOR  
THE BREWING INDUSTRY

AS SET FOR HEARING ON

November 27, 1933.

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This document has been filed with the Chief Hearing Clerk, Agricultural Adjustment Administration, as a tentative substitute for the proposed Code of Fair Competition for the Brewing Industry, which has been set for hearing on Monday, November 27, 1933. The substitute will be presented for the record on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages, at the hearing upon the proposed Code. The proposed substitute is presented as a basis for the presentation of evidence with respect to the policies incorporated therein, and is not to be regarded as a final expression of the views of the Special Committee.







# CODE OF FAIR COMPETITION FOR THE BREWING INDUSTRY

## ARTICLE I.

### Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title 1 of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And -

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And, -

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcohol or alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Brewing Industry and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States.



## Article II

### Definitions

Section 1. As used in this Code:-

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "United States" includes the several states and territories, the District of Columbia, and Puerto Rico.
- (d) The term "person" means individual, partnership, corporation, association and any other business unit.
- (e) The term "brewing industry" means the manufacture of beer, ale, porter, stout and other fermented malt liquors or cereal beverages, containing more than 1/2 of 1 per cent by volume of alcohol, and the bottling, warehousing or other handling or distribution of these products, or the sale or other disposition thereof, by a brewer or an affiliate or subsidiary thereof.
- (f) The term "products of the industry" or "products" as used herein shall mean and include beer, ale, porter, stout and other fermented malt liquors or cereal beverages, containing more than 1/2 of 1 per cent by volume of alcohol.
- (g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.
- (h) The term "watchman" includes only employees whose principal function is watching and guarding the premises and property of the establishment.
- (i) The term "outside salesmen" means any salesman who performs exclusively selling functions and does not deliver.
- (j) The term "employer" means any person by whom any such employee is compensated or employed.
- (k) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.
- (l) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.
- (m) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.



(n) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner.

(o) The term "trade buyer" means any buyer of products of the industry other than an ultimate consumer buyer.

(p) The term "Administration" means the Federal Alcohol Control Administration established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

(q) The term "Director" means the Director of the Federal Alcohol Control Administration.

### Article III

#### Labor Provisions

##### Hours

(1) No employee shall knowingly be permitted to work in excess of 40 hours in any week or 8 hours in any one day or 6 days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 percent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than 72 hours per week.

(d) Delivery drivers provided they are paid at least time and one-third for all hours worked in excess of 40 hours per week and 8 hours per day.

(2) In addition the maximum hours established shall not apply in those departments or divisions of the brewing industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed 48 hours per week and 10 hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of 40 hours per week and 8 hours per day.

(3) The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employees working in excess of forty hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

(4) No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.



## ARTICLE IV

### Wages

(1) No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and messengers may be employed at not less than \$14.00 per week.

(2) No watchman shall be paid at a rate of less than \$20.00 per week.

(3) No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than \$18.00 per week provided that in no case shall the rate of pay be below an amount which for 40 hours of labor will result in the same pay as is now paid to such employee for the number of hours per week which he regularly works unless such pay is hereafter otherwise fixed by collective bargaining agreement.

(4) It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or piece work performance.

(5) It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

## ARTICLE V

### General Labor Requirements

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(4) On and after the effective date of this Code, no person under 16 years of age shall knowingly be permitted to work in the industry.

(5) Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinance.



(6) Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

(7) Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

(8) All changes in the provisions of Articles III and IV or of this Article shall be posted within one week after such changes have been incorporated in the Code.

## ARTICLE VI

### Permits

Section 1. No person shall engage in the brewing industry except pursuant to a permit issued by the Director. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Articles III, IV and V) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business, or any right to engage in the manufacture or distribution of any product after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify in any way whatsoever any procedure or remedy which may be available for the enforcement of the provisions of this Code.

## ARTICLE VII

### Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any product. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any product that is misbranded. A product shall be deemed to be misbranded--

(a) Food and Drugs Act requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of fill. If its container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.



(c) Standards of identity. If it purports to be or is represented as a product for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of quality. If it purports to be or is represented as a product for which standards of quality have been prescribed by regulations of the Administration, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label requirements. If it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase products of a particular brand or from a particular person or (b) to refrain from purchasing of or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement or contract the effect of which will amount to the shipment and/or delivery of products on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service. No member of the industry shall pay a trade buyer for a special advertising or other distribution service by such buyer (a) except in pursuance of a written contract made in good faith and explicitly defining the service to be rendered and the payment for it; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same trade area; and (e) unless a copy of each such contract is filed with the Administration.

Section 6. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the sellers price.

Section 7. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any trade buyer handle or sell only the products of a particular member of the industry.

Section 8. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement except bona fide samples to either trade or consumer buyers.

Section 9. Control of Retail Outlets. To acquire after the effective date of this Code or to hold after January 1, 1935, any interest in any license for the sale of products at retail, or in any premises used therefor;



or, after the effective date of this Code (or as soon thereafter as possible and in no case later than January 1, 1935), in any way, directly or indirectly, to participate or engage in the retail sale of products, or to have control of, employ, manage, or financially assist in any manner, any person engaging in the retail sale of products; provided, that this shall not be construed to prohibit a member of the industry to give away or sell products on premises of which the brewery is a part.

Section 10. Sales to Unauthorized Vendors. To sell or otherwise dispose of products to any person not authorized by license, in full force and effect, to sell, manufacture or distribute products, if such a license is required of such person by State law; or to sell or otherwise dispose of products to any member of an industry covered by any code under this Act relating to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the code.

Section 11. Violations of State Law. To transport or import products into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

Section 12. Equipment and Fixtures. To furnish, give, rent, lend or sell any equipment, fixtures, or supplies directly or through a subsidiary, to any trade buyer. Nothing herein shall be construed to prohibit the sale to any trade buyer by members of the industry of such equipment, fixtures or supplies now owned by them and now installed in retail premises.

Section 13. Signs. To furnish, give, rent, lend or sell any interior decoration, or to furnish, give, rent, lend or sell any sign which costs more than \$2.00.

## ARTICLE VIII

### Prices and Terms of Sale.

Section 1. Each member of the industry shall keep posted with the Administration and the Code Authority, in accordance with regulations prescribed by the Administration, a price list which shall set forth: (a) All the products offered for sale by such member, (b) the sale price of such products to various classes of trade or consumer buyers and (c) all other terms and conditions of sale of such products, including terms and conditions relating to deposits on and allowances and refunds for containers. No sale of products shall be made by any member of the industry except in accordance with prices, terms and conditions which have been posted and which have not been declared ineffective under Section 2 of this Article.

Such posted prices may be made available to trade buyers in accordance with regulations prescribed by the Administration.



Section 2. If the Administration finds after investigation, conducted by either the Administration or the Code Authority, that any posted price list contains prices or terms or conditions which constitute destructive price-cutting or are detrimental to the orderly marketing of products of the industry, or are oppressive to consumers, the Administration is authorized, after consultation with the Code Authority, to declare such prices or terms or conditions ineffective.

Section 3. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not extended to all under the terms and conditions of sale as disclosed in the posted price list, is prohibited.

Section 4. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms or conditions of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoices does not truly reflect the transaction involved, is prohibited.

#### ARTICLE IX

##### Distributors

Section 1. As used in this Article, the term distributor means any trade buyer except a trade buyer who distributes solely to consumers.

Section 2. No member of the industry shall sell or deliver products to a distributor unless such distributor agrees to comply, and does comply, with the provisions of Article VII of this Code.



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ARTICLE X

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code and/or (2) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation proscribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations proscribed by the Administration.

ARTICLE XI

Administration

Section 1. The provisions of this Code (except those relating to hours of labor, rates of pay, and other conditions of employment) shall be administered with the cooperation of the Code Authority hereinafter provided for, by the Federal Alcohol Control Administration established pursuant to the Code of Fair Competition for the Distilled Spirits Industry.

Section 2. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 3. The Administration may utilize the services of the Bureau of Internal Revenue, the Agricultural Adjustment Administration, the Food and Drugs Administration, and other agencies of the Government in performing its functions under this Code. The President may allocate to any agency of the Government whose services are so utilized, such monies available for carrying out the purposes of Title I of the National Industrial Recovery Act as may be necessary.



Section 4. (a) The Administration shall establish a temporary Code Authority representative of the brewing industry. The temporary Code Authority shall be empowered to report to the Administration a plan for the selection by the Industry of a permanent Code Authority, and when such plan is adopted by the Administration, it shall become operative.

(b) The membership of the permanent Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration.

(c) The expenses of the temporary and permanent Code Authority shall be borne by the members of the Industry according to a plan to be submitted by the temporary Code Authority and approved by the Administration.

(d) The temporary and permanent Code Authorities shall cooperate with the Administration and the National Recovery Administrator in carrying out this Code, and shall have the following powers and duties: to act as an agency through which members of the industry may make recommendations to effectuate the declared policy of the Act; and to serve as one of the agencies through which reports of apparent violations of this Code may be received and submitted to the Director or the National Recovery Administrator, whichever is appropriate. In addition, in order to take the fullest advantage of the cooperation of the members of the industry in aiding the Administration in promoting the observance of this Code, the Code Authority shall have such additional power and duties as may be prescribed by regulations of the Administration, including the making from time to time of recommendations as to regulations under this Code. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Section 5. Regulations establishing the temporary and permanent Code Authorities and those prescribing their powers and duties shall be subject to modification by the Administration from time to time.

## ARTICLE XII

### Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

## ARTICLE XIII

### Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with their respective powers and duties under this Code.



ARTICLE XIV

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XV

Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the brewing industry.

ARTICLE XVI

Effective Date

Section 1. This Code shall be effective the day following its approval by the President.







## ARTICLE I

WHEREAS, it is the declared policy of Congress as set forth in Section I of Title I of the National Industrial Recovery Act:

And -

And -

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Brewing Industry (exclusive of provisions relating to hours of labor, rates of pay and other conditions of employment) and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States.







## ARTICLE II

### Definitions

#### Section I. As used in this Code -

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "person" means individual, partnership, corporation, association and any other business unit.
- (d) The term "brewing industry" means (1) the manufacturer of beer, ale, porter, stout, or other fermented malt liquors containing more than  $\frac{1}{2}$  of one per centum of alcohol by volume, (2) the manufacture of cereal beverages, or (3) the bottling, warehousing, or other handling or distribution of any of the foregoing products, or the sale or distribution thereof, by a brewer or an affiliate or subsidiary thereof.
- (e) The term "products of the industry" or "products" means beer, ale, porter, stout and other fermented malt liquors or cereal beverages.
- (f) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.
- (g) The term "employer" means any person by whom any such employee is compensated or employed.
- (h) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.
- (i) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.
- (j) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.
- (k) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.







(l) The term "trade buyer" means any buyer of products of the industry except an ultimate consumer.

(m) The term "Administration" means the Federal Alcohol Control Administration.

(n) The term "Director" means the director of the Federal Alcohol Control Administration.

(o) The term "Code Authority" means the industry authority established under section 1 of Article VIII of this Code.

(p) The term "Regional Boards" means the boards established under Article VIII of this Code.

(q) The term "United States" means the several States and Territories, the District of Columbia, and Puerto Rico.

(r) The term "State" includes Territory and the District of Columbia.

(s) The term "distributor" means any trade buyer except a trade buyer who distributes solely to consumers.

### ARTICLE III

#### Mandatory Labor Provisions

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.







## ARTICLE IV

### Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any product of the industry. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any product of the industry that is misbranded. A product shall be deemed to be misbranded--

(a) Food and Drugs Act Requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If its container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If it purports to be or is represented as a product for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of Quality. If it purports to be or is represented as a product for which standards of quality have been prescribed by regulations of the Administration, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label Requirements. If it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purpose of this sub-section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase products of the industry from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.







Section 4. Consignment. The making of or entering into any agreement or contract the effect of which will amount to the shipment or delivery of products of the industry on consignment. "Consignment", as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay or make an allowance to a trade buyer for a special advertising or distribution service (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same class in the same trade area; and (e) unless a copy of each such contract is filed with the proper Regional Board. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Control of Retail Outlets.

(a) Retail Licenses. To hold the ownership, directly or indirectly, after the expiration of existing licenses, of any interest in any license to sell products of the industry for consumption on the premises covered by such licenses. Nothing herein contained shall apply to licenses issued to members of the industry to give away or sell products of the industry on premises of which the brewery is a part.

(b) Loans and Guaranties. To furnish, give or lend any money or other thing of value, directly or indirectly or through a subsidiary or affiliate or by any officer, director, or firm member of the industry, to any person engaged in selling products of the industry for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for the products of the industry sold and delivered.

(c) Equipment and Fixtures. To furnish, give, rent, lend, or sell any equipment, fixtures, or supplies, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged







in selling products of the industry for consumption on the premises where sold. Nothing herein shall be construed as applying to such equipment, fixtures, or supplies furnished, loaned or rented prior to the effective date of this Code or prohibit the sale by any member of the industry or any subsidiary or affiliate thereof, of such equipment, fixtures, or supplies now owned by them and now installed in retail premises. No loan, rental or sale of any equipment, fixtures or supplies made before the effective date of this Code shall be used as a consideration for an agreement thereafter made respecting the purchase of products of the industry.

(d) Signs. (1) To furnish, give, lend or rent any interior decoration other than signs, or to furnish, give, lend or rent any sign or signs, for inside or outside use, costing collectively more than \$100 in any one calendar year by any member of the industry, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm member of any member of the industry, for use in or about or in connection with any one establishment on which products of the industry are sold for consumption on the premises where sold, provided that nothing herein shall affect existing sign or signs under uncancellable order costing not more than \$400 each, if within 40 days after the effective date of this Code, a list of such uncancellable orders, as have been placed by him, is filed by the member of the industry with the regional board having jurisdiction of the territory in which his plant is located.

(2) To pay money or other thing of value for the privilege of placing or painting a sign on the premises occupied by anyone selling products of the industry for consumption on the premises where sold. Nothing herein shall be construed as prohibiting the payment or rental for signs installed or painted under contract prior to the effective date of this Code.

(e) Ownership of Real Estate. To hold any interest in any premises acquired after the effective date of this Code on which products are sold at retail for consumption on the premises where sold unless the holding of such interest is permitted under regulations of the Administration, or a statement of the holding thereof has been filed with the Administration and has not been disapproved by it.

Section 7. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the sellers price.

Section 8. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any retail trade buyer handle or sell only the products of a particular member of the industry.







Section 9. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement, except advertising novelties of nominal value, to either trade or consumer buyers.

Section 10. Sales to Unauthorized Vendors. After notification by the Code Authority or a regional board, to sell or otherwise dispose of products of the industry to any person who has been declared by the Code Authority or a regional board to be not authorized by license in full force and effect, to sell, manufacture or distribute such products, if such a license is required of such person by State law.

Section 11. Violations of State Law. To transport or import products of the industry into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

Section 12. Returnable Containers. To accept as a return or to purchase or use a hogshead, barrel, half barrel, keg, case or bottle branded or imprinted with the name of another member of the industry unless it be for exchange with the member whose name is branded thereon and such exchange is completed.

## ARTICLE V

### Prices and Terms of Sale.

Section 1. Each member of the industry shall keep posted with the Code Authority or appropriate regional board, in accordance with regulations prescribed by the Code Authority and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of products containing more than  $\frac{1}{2}$  of one per centum of alcohol by volume offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale, other than usual periods of credit, of such trade products. Such prices and terms shall not be effective until 10 days after they have been posted as aforesaid.

Section 2. The terms of sale so posted shall include provisions that no delivery of any hogsheads, barrels, kegs or cases shall be made without collecting for the container, or (if the brewer retain title thereto, without a deposit therefor) at the time collection is made of the price for the product of the industry sold. The amounts so collected or deposited shall not be less than such amounts as the Code Authority, with the approval of the Administration, shall prescribe.







Section 3. No sale or other disposition of products of the industry containing more than  $\frac{1}{2}$  of one per centum of alcohol by volume, shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Section 4. (a) No member of the industry shall post or keep posted any price or term which (1) will constitute destructive price cutting or dumping or (2) be so high as to encourage, directly or indirectly, the sale of trade products in violation of law, or (3) be oppressive to the consumer.

(b) A price or term posted by a member of the industry shall constitute dumping if it permits the sale of a product of the industry in any territory of sale outside the territory of manufacture at a price which is both (1) lower than the lowest comparable price posted by any other member of the industry in such outside territory for a product of similar quality; and (2) lower than the lowest price for the same product posted by the member of the industry in his territory of manufacture. In computing such comparative prices there shall be deducted from the price posted in the territory of manufacture any difference between the taxes in the territory of sale and those prevailing in the territory of manufacture. In no event shall the price or term be deemed to constitute dumping if such price or term is fair and reasonable in view of the prevailing conditions within the territory of sale, including the general level of prices for the product. For the purposes of the paragraph the area covered by a territory shall be as specified in Article VIII.

(c) A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or appropriate regional board, or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority or appropriate regional board finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any brand or type of products of the industry are contrary to the requirements of Section 4, it may report such fact to the Code Authority or appropriate regional board. If the Code Authority or appropriate regional board does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.







Section 7. The making of any sale or delivery, except sales or deliveries to the home, without a written invoice is prohibited.

Section 8. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Section 9. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

## ARTICLE VI

### Distributors.

No member of the industry shall sell or deliver products of the industry to a distributor unless such distributor agrees with such member to comply, and does comply, with the provisions of Article IV and of section 2 of Article V; except that such agreement shall be effective only until a wholesale code imposing similar conditions upon the wholesale distributors of products of the industry, has been approved for the alcoholic beverages wholesaling industry.

## ARTICLE VII

### Reports

Section 1. The members of the industry shall severally from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (2) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act







and the purposes of this Code are being effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that their respective subsidiaries and affiliates keep such records.

Section 4. All information furnished the administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

## ARTICLE VIII

### Administration

Section 1.(a) A Code Authority shall be established by the members of the industry for the purpose of administering the provisions of this Code (except as otherwise provided) and of supervising and promoting the observance of such provisions. The Code Authority shall be established promptly upon the approval of this Code and shall be constituted as follows:

(1) The Code Authority shall be composed of 9 members, each of whom shall be engaged in the industry. The members shall serve without pay and shall be appointed or elected for a term of one year. Three of the members shall be appointed by the president of the United States Brewers Association by and with the approval of the board of directors of that Association; two by the president of the American Brewers Association by and with the approval of the board of directors of that Association; and four, not members of either of said Associations, shall be elected by members of the industry who are not members of either of said Associations at a meeting or convention of such non-members. Such







non-members may vote at such meeting by proxies and a majority vote of all such brewers, not members of either of said Association, shall be required to elect.

(2) Of the members appointed or elected by each group, not more than one shall come from a single territory as hereinafter specified. Lists of members so appointed or elected shall be submitted to the Administration for approval, and the Administration may appoint a representative to attend the meetings of the Code Authority.

(3) Not more than one officer, director, or employee of any one member of the industry shall be a member of the Code Authority. Members of the Code Authority may be represented at meetings in person or by proxy.

(4) Vacancies on the Code Authority, so far as United States Brewers Association members are concerned, shall be filled by appointment made by the president of that association with the approval of the board of directors of that association; vacancies, so far as American Brewers Association members are concerned, shall be filled by appointment made by the president of that association with the approval of the board of directors of that association; and vacancies, so far as other members are concerned, shall be filled by election on ballots sent through the mail to brewers in the United States who are not members of either of said associations by the said Code Authority under such regulations as the Code Authority may adopt. Lists of members so appointed or elected to fill vacancies shall be submitted to the Administration for approval.

(b) The Code Authority shall -

(1) Adopt, with the approval of the Administration, uniform regulations for the administration of the provisions of this Code, except as otherwise provided; and regulations so adopted shall have the same force and effect as the provisions of this Code.

(2) Cooperate with the regional boards, one of which shall be organized for each of the following territories by the members of the industry whose breweries are located in such territory; administration of this Code within their respective territories as follows:

<u>Regional Board Number</u>	<u>Territory Covered by Board</u>
1	Maine, New Hampshire and Vermont
2	Massachusetts, Rhode Island and Connecticut
3	New York and Puerto Rico
4	New Jersey
5	Delaware, Maryland, District of Columbia, Virginia







<u>Regional Board Number</u>	<u>Territory Covered by Board</u>
6	Pennsylvania
7	North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Kentucky and Tennessee
8	Ohio and West Virginia
9	Indiana
10	Iowa and Illinois
11	Michigan
12	Wisconsin
13	Minnesota, North Dakota and South Dakota
14	Missouri
15	Louisiana, Arkansas, Oklahoma and Texas
16	Colorado, Utah, Wyoming, Kansas, Nebraska and New Mexico
17	Montana, Washington, Idaho, Oregon and Alaska
18	California, Nevada, Arizona and Hawaii

Section 2. The Administration may, from time to time, make such changes in the territorial limitations of the regional boards as it deems necessary.

Section 3. (a) All members of the industry whose breweries are located in any territory as above specified shall, within 15 days after the effective date of this Code, gather in convention in some centrally located point in that region, and there nominate and elect by ballot a regional board for such territory. The members of each regional board shall be representative of members of the industry in the board's territory (due consideration on their election to be given plant capacity and numbers) and their names shall be submitted to the Administration for approval.

(b) Each regional board shall adopt, with the approval of the Administration, regulations for the administration within its territory of the provisions of this Code except as otherwise provided, and regulations as to its organization and as to investigations to be made by it; and shall have power to interpret informally, for the members of the industry within its territory the provisions of this Code.

(c) Any of said regional boards shall entertain and hear complaints, under the regulations adopted as above provided, against any member of the industry within its territory, arising out of any alleged violation of this Code arising wholly within the board's territory; and may require from any member of the industry a statement of the facts pertinent to the inquiry.







(d) If any regional board declares that in its opinion there has been a violation of any of the provisions of this Code, it may proceed by warning notice to the defendant or by report, including the record and recommendation, to the Code Authority, which in the absence of appeal, shall transmit the report to the Administration.

(e) Appeals shall lie on motion of the complainant or defendant from the recommendations of said regional boards to the Code Authority with respect to any alleged violation. The Code Authority, when it deems it necessary, may report its findings and its recommendations to the Administration, together with the report of the regional board. A copy of the findings and recommendations of the Code Authority shall be sent also to the regional board in which the case originated.

(f) Each regional board shall have power to employ such paid assistants as it deems necessary, and all of the expenses (which shall be limited to carry out the provisions of this Code) of such regional board shall be allocated to the members of the industry whose products are distributed in the board's territory, in proportion to distribution by barrels, on a budget to be made public to all members of the industry whose products are sold in the board's territory. The members of such regional board shall serve without pay.

Section 4. (a) The Code Authority shall have the same original jurisdiction, including powers in connection therewith, as to alleged violations of this Code arising within two or more of the territories herein specified, as are granted to a regional board with respect to alleged violations arising wholly within the board's territory. The report of the Code Authority with respect to the violation shall be transmitted to the Administration.

(b) The Code Authority shall have power to consider proposals from any member of the industry for the amendment of this Code and to submit such proposals to the Administration; and to interpret informally for members of the industry the provisions of this Code, which interpretation shall be rendered through the regional boards.

(c) The expenses of the Code Authority (which shall be limited to carrying out the provisions of this Code) shall be allocated to members of the industry in proportion to their sales by barrels, to be collected in such manner as the Code Authority may determine, on a budget to be made public to all members of the industry.







## ARTICLE IX

### Federal Alcohol Control Administration

Section 1. The Federal Alcohol Control Administration shall prescribe such regulations, and make such interpretations, as are necessary to administer the authority conferred on it by this Code. Such regulations shall have the same force and effect as the provisions of this Code.

Section 2. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not within such time as the Administration deems proper, take action relating to such report which the Administration deems adequate, the Administration shall take such action as it may deem necessary to administer such provisions.

Section 3. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems desirable.

## ARTICLE X

### Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination, except with respect to acts done prior thereto.

## ARTICLE XI

### Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as its or his agent in connection with their respective powers and duties under this Code.



## ARTICLE IX

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Section 1. The Federal Alcohol Control Administration shall prescribe such regulations, and make such adjustments, as are necessary to administer the authority conferred on it by this Code. Such regulations shall have the same force and effect as the provisions of this Code.

Section 2. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not within such time as the Administration deems proper, take action relating to such report which the Administration deems adequate, the Administration shall take such action as it may deem necessary to administer such provisions.

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## ARTICLE XII

### Modification.

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10(a) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

## ARTICLE XIII

### Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the brewing industry.

## ARTICLE XIV

### Effective Date

Section 1. This Code shall be effective the day following its approval by the President.



ARTICLE XII

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Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10(a) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

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